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COMMITTEE AGAINST TORTURE

Seventh session

SUMMARY RECORD OF THE 94th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 November 1991, at 3 p.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Initial report of the Czech and Slovak Federal Republic (CAT/C/7/Add.12) (continued)

1. The CHAIRMAN thanked Mrs. Baumgartner and Mr. Mahdi, the two artists whose works on torture were being shown at the entrance to the meeting room. He then welcomed the Czechoslovak delegation.

2. At the invitation of the Chairman, Mr. Karabec, Mr. Dusek and Mr. Reis (Czech and Slovak Federal Republic) took places at the Committee table.

3. Mr. KARABEC (Czech and Slovak Federal Republic) thanked the Committee for the pertinent questions it had put to his delegatior at the preceding meeting. He would transmit the questions to the authorities of his country, who would no doubt take them into account in their efforts to bring domestic legislation into line with the spirit and letter of the Convention.

4. Many questions had related to the application of article 1 of the Convention. As indicated in paragraph 15 of the report (CAT/C/7/Add.12), Czechoslovak penal law, which was more abstract than the law of other European countries in that regard, did not consider it necessary specifically to define the offence of torture, as the different forms of torture or inhuman treatment, including psychological torture, were equated with other offences. None the less, his delegation would propose to the competent authorities that a definition of torture in conformity with that contained in article 1 of the Convention should be introduced into domestic law. Now was an appropriate time to do so, as a completely new penal code and code of penal procedure were being prepared in the Czech and Slovak Federal Republic.

5. In reply to a question by Mr. Burns, he said that, under the Charter of Fundamental Rights and Freedoms of 9 January 1991, any domestic legislation and legal provisions not in conformity with fundamental freedoms and rights would become null and void as from 31 December 1991.

6. As the new penal code and code of penal procedure were still in the drafting stage, it was difficult to give a specific answer to the questions relating to the application of particular articles of the Convention. He could nevertheless assure Mr. Mikhailov, who had asked what the penalties were in the event of an abuse of power by an official in the exercise of his duties, that, if such an official was recognized as being guilty of assault, he was liable to two to eight years' imprisonment, in accordance with article 222 of the Penal Code.

7. In reply to the request for statistical data made by several members of the Committee, he said that legal proceedings were under way in connection with 40 cases of torture or inhuman treatment in prisons. Those offences had been committed before 1989. In connection with the events of November 1989, 35 police officers had been charged with assault, following an inquiry supervised by a parliamentary committee.

8. The compensation of victims of torture or inhuman or degrading treatment gave rise to a problem because thousands of persons who had been arrested on political grounds had suffered from such treatment under the previous dictatorial regime. According to the ruling of a court, such persons were having their rights restored and receiving compensation. He informed Mr. Sorensen that Czechoslovak law did not yet provide for the award of medical compensation. He agreed with Mr. Sorensen that it was desirable that the supervisory and medical staff of prisons should be more familiar with the Convention; that was one of the authorities' concerns and the Czechoslovak Ministry of Health had been represented at the fourth international symposium on torture and the medical profession organized by the International Rehabilitation Research Centre for Torture Victims in Budapest in October 1991.

9. Lastly, with regard to the independence of the judiciary, he said that, under legislation adopted in 1991, judges were appointed for life by Parliament and could be dismissed only for disciplinary reasons.

10. Mr. DUSEK (Czech and Slovak Federal Republic) pointed out that paragraphs 19, 20, 21, 33 and 34 of the initial report (CAT/C/7/Add.12) should be read in the light of the forthcoming repeal of the Act on the National Security Corps. Since the report had been prepared, Acts No. 333/1991 and No. 334/1991 of the Collection of Laws had established the independence of the police force in relation to any political organization or pressure group.

11. In reply to a question put by several members of the Committee, he said that a police officer who refused to obey an order from a superior was required to give his reasons for doing so in a written report, which was considered by a disciplinary board or by the prosecutor. With regard to custody, the maximum duration was 24 hours and the police were required to inform the family of the person arrested that he was in custody (Acts No. 233/1991 and No. 284/1991 of the Collection of Laws). In reply to a question by Ms. Chanet and Mr. Mikhailov, he said that the provisions of the acts referred to in paragraph 20 of document CAT/C/7/Add.12 were aimed generally at bringing Czechoslovak legislation into line with the Convention.

12. Mr. REIS (Czech and Slovak Federal Republic), replying to several questions put by the Committee, said that the Act on the Execution of Prison Sentences (No. 59/1964, Collection of Laws), as amended by Act No. 178/1990 prohibited the infliction of inhuman or degrading treatment on prisoners. It also authorized detainees to lodge complaints. A complaint had to be considered by the competent authorities as expeditiously as possible. Detainees could have contact with priests, representatives of humanitarian organizations or their lawyers without the presence of a third person. A detainee could be isolated only if his fitness to withstand detention incommunicado had been confirmed by a medical examination.

13. Under the Czechoslovak Code of Penal Procedure, pre-trial detention could not last more than two months and could not be extended, on the decision of the Office of the Public Prosecutor, for more than two years. That was without any doubt still far too long and further efforts had to be made in that regard. In that connection, he indicated that the new rules on the execution of sentences that were now under consideration would guarantee conditions of detention in conformity with international instruments. Prison staff would

receive strict instructions about the attitude to adopt towards detainees and would receive appropriate training. Considerable efforts would be made to improve the material conditions of detention, taking into account the country's possibilities.

14. Mr. DIPANDA MOUELLE asked whether all judges were appointed for life.

15. Mr. KARABEC (Czech and Slovak Federal Republic) said that all judges were appointed for life and that they could be dismissed only on disciplinary grounds.

16. Mr. SORENSEN said that the participation of doctors in decisions to place detainees in solitary confinement was contrary to medical ethics, particularly because of the abuses which might occur. Since the new Czechoslovak penal code was currently being prepared, he suggested that provisions concerning that point should be reconsidered.

17. The CHAIRMAN, speaking as a member of the Committee, said that he would like the next periodic report of the Czech and Slovak Federal Republic to indicate whether the public prosecutor continued to monitor the administration of justice. The fact that judges were appointed for life seemed to show that he no longer did so, but that should be confirmed. Further details should be provided on the question of the conformity of Czechoslovak legislation with the Convention, particularly articles 3, 4 and 5, and the questions of education and the systematic supervision of interrogation practices and methods should be taken up again. The Committee would also like to know whether there had been any very recent cases of torture, what penalties had been imposed and what compensation had been awarded.

18. Mr. MIKHAILOV (Country Rapporteur) said that the replies by the Czechoslovak delegation had not always been complete, but they had been clear; both the report and the introduction met the requirements of the Convention. The Committee hoped that the new Czechoslovak penal code which was being prepared would place greater emphasis on action to combat torture and inhuman and degrading treatment and punishment, particularly by including a definition of torture. The new code of penal procedure should also be as much in line with the Convention as possible and it was to be hoped that it would reflect the proposal made by Mr. Sorensen. The Committee also proposed that the Czechoslovak authorities should draw up a programme which would enable lawyers, doctors and concerned officials to become familiar with the Convention.

19. Ms. CHANET (Alternate Country Rapporteur) said she hoped that the replies which the Czechoslovak delegation had not been able to provide would be contained in the periodic report to be submitted in August 1993. She welcomed the efforts which were being made by the Czechoslovak Government and which seemed to be a step in the right direction.

20. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee endorsed the conclusions of the country rapporteur and the alternate country rapporteur.

21. It was so decided.

22. Mr. Karabec, Mr. Dusek and Mr. Reis (Czech and Slovak Federal Republic) withdrew.

The meeting rose at 3.50 p.m.